

## REMARKS

It is respectfully requested that this Amendment be entered in the above-identified application prior to continued examination.

Initially, the undersigned would like to thank the Examiner for the courtesy and assistance extended on behalf of the Applicants during the telephonic interviews conducted on September 20 and October 9, 2007, with the undersigned.

In the Official Action, the Examiner rejects claims 59-64 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,846,241 to Kittur et al., (hereinafter "Kittur").

In response, claims 59, 61, 63 and 64 have been canceled, thereby rendering the rejections thereof moot. Withdrawn claims 65-71 have also been canceled. However, the Applicant reserves the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter in this application.

With regard to claims 60 and 62, the same have been rewritten in independent form as suggested by the Examiner during the telephonic interviews discussed above. During such interviews, the Examiner indicated that claims 60 (amended to recite "the proximal end of the electrode is located inward of and connected to a side surface of the electrically insulating member") and 62 (without any further amendment) would be allowable.

Thus, Applicants respectfully submit that claims 60 and 62 patentably distinguish over Kittur and are allowable.

Furthermore, new claims 72-78 have been added to further define the patentable invention. New claims 72-78 are fully supported in the original disclosure. Thus,

no new matter has been entered into the disclosure by way of the addition of new claims 72-78.

With regard to new independent claim 72, the same is similar to claim 60 except for the language “proximal end” being replaced by the phrase “side surface portion” and further recites that “the side surface portion of the electrode is located inward of an outermost side surface of the electrically insulating member.”

With regard to new claim 75, the same recites a monopolar diathermic cutter, where the tip end portion has at least an electrically insulating portion and all portions of the plurality of projections are disposed such that they oppose the electrically insulating portion. Such a configuration defines a monopolar configuration, which is not disclosed in Kittur. Item 14 in Figure 1 of Kittur is disclosed as being a fixed electrode. Thus, the device shown in Figures 1-3 (as well as Figures 4-8) all have bipolar configurations. Kittur simply does not disclose, suggest or even contemplate monopolar configurations.


With regard to new claim 78, the same is not limited to a monopolar configuration but recites that an outer periphery of the electrically insulating member extends further in the axial direction than the three or more projections and three or more projections extending radially outward from the central axis.

Applicants respectfully submit that new independent claims 72, 75 and 78 patentably distinguish over the prior art and are allowable and that claims 73, 74, 76 and 77 are at least allowable as being dependent therefrom.

Lastly, the Drawings, at Figure 1A has been amended as described above to be consistent with the specification (e.g., at page 11). A replacement sheet for Figure 1A showing such changes is enclosed.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli  
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343

TS:cm

Enclosure (Replacement Sheet For Amended Figure 1A)